

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16269** of Mt. Sinai Baptist Church, pursuant to 11 DCMR 3107.2, for a variance from the lot occupancy requirements (Subsection 403.2) and special exceptions under Sections 214 and 2108 to establish accessory parking spaces elsewhere than on the same lot on which the main use is located and to reduce the required number of parking spaces for a nonresidential use, or in the alternative, a variance from the off-street parking requirements (Subsection 2101.1) for construction of a Sunday School/ Educational Building in an R-4 District at premises 1644 3<sup>rd</sup> Street, N.W. (Square 520, Lot 108).

**HEARING DATE: October 15, 1997**

**DECISION DATE: November 5, 1997**

**ORDER**

**SUMMARY OF EVIDENCE:**

The subject site is located at 1644 3rd Street, N.W. (Lot 108, Square 520). The site, Lot 108, is an unimproved lot owned by the applicant, Mt. Sinai Baptist Church (Mt. Sinai). The lot is rectangular in shape and consists of 6,009.5 square feet of land area. The size of the lot is unique to the area because it results from the combination of three substandard sized lots.

Also relevant to this application is Lot 801 which is located at 1650 3rd Street, N.W., three lots directly to the north of Lot 108. Lot 801 is a standard size lot for the zone district and consists of 1,283 square feet of land area and it is also unimproved. This lot is owned by the D.C. Redevelopment Land Agency (RLA).

Both Lots 108 and 801 are located within Square 520. This Square is bounded by 3rd Street, N.W. on the east, R Street on the north 4th Street on the west and Q Street on the south. A 10-foot wide public alley dissects the square from the north to the south between Q and R Streets, N.W.

Mt. Sinai Baptist Church is located at 1615 3rd Street, N.W. Mt. Sinai proposes to construct a Sunday School Building on Lot 108 which is located west of the church. The applicant has contracted with RLA to acquire the use rights to Lot 801 for the purpose of establishing additional off-street parking spaces that are accessory and convenient to the proposed Sunday School Building.

The site is located in the Truxton Circle area of Ward 5 and is characterized by moderate density residential with rowhouses and garden apartments as predominant uses. The properties directly east of the site are multiple unit housing and mid-rise apartment buildings. The

properties to the south, north and west of the site are mostly residential single and multi-family structures.

The property is located in an R-4 District which permits matter-of-right development of residential uses (including detached, semi-detached and row single-family dwellings and flats) with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and maximum height limit of three stories/40 feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit. No floor area limitations are prescribed. A Sunday School Building use is permitted in the R-4 District as a matter of right.

The church proposes to construct a three-story brick building consisting of 10,471 square feet on a building footprint of 2,644 square feet in an R-4 District. The maximum lot occupancy allowed for a Sunday School building in an R-4 District is 40 percent or 2,403.8 square feet, as applied to Lot 108. The applicant is seeking an area variance of approximately 334.32 square feet, or 14 percent to accommodate the 2,738 square foot footprint of the building. The applicant maintains that this is the minimal square footage necessary to conduct its programs and to provide an appropriate level of off-street parking.

The applicant stated that the Zoning Regulations require that 18 off-street parking spaces be provided for a building this size in the R-4 District. The applicant plans to provide a total of nine spaces on site and four additional spaces on Lot 801. The applicant seeks a special exception under Section 2108 which would allow for the reduction of off-street parking requirement by up to 50 percent.

At the public hearing, the Board reviewed and analyzed this application under Sections 214 and 2108 for special exception relief on the issue of parking. The applicant did not address the alternative parking variance relief advertised.

### **Issues and Arguments:**

#### **The Lot Occupancy Variance**

1. Whether there exist a unique or exceptional situation or condition related to the property that would create a practical difficulty for the owner in complying with the Zoning Regulations?

The applicant testified that the lots for the proposed project are narrow and shallow, and this makes it exceptionally difficult in designing a structure that will adequately meet its matter-of-right use at the site. The applicant noted that the practical difficulty resulting from the narrow lots, forced the applicant to acquire three lots for the proposed project. The applicant stated that it cannot comply with the lot occupancy regulation of Subsection 403.2 and would suffer a practical difficulty if the requested variance is not granted.

2. Whether granting the application would be of substantial detriment to the public good and whether it would impair the intent, purpose and integrity of the zone plan?

The applicant, through an expert project architect, testified that the relief sought would not be detrimental to the public good. Further, it would not impair the intent, purpose and integrity of the Zoning Regulations and Map and would not affect adversely the use of neighboring property.

By letter dated October 8, 1997, Ward 5 D.C. Council Member Harry L. Thomas, Sr., urged the Board to grant the and variance relief necessary to authorize the development and use of the proposed Sunday School Building. Mr. Thomas stated that he is personally familiar with the neighborhood and he has examined the design of the proposal. As a result, he is convinced that the proposed building is unique and that it is necessary to build it at the proposed scale. He is of the view that the structure would not have an adverse effect on the use or enjoyment of neighboring property.

### **The Special Exception for Parking**

#### **Accessory Parking Spaces**

**Subsections 214.1 through 214.6** delineate the requirements for accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which the main use is permitted, subject to the conditions specified in Section 3108 of Chapter 31 of the Zoning Regulations.

The applicant is seeking a special exception to provide for accessory parking spaces on a nearby open accessory lot, Lot 801, which is approximately 40 feet to the north of the proposed Sunday School Building. The applicant stated that the accessory parking lot would be provided as long as the Sunday School Building exists. According to the applicant, the four parking spaces that would be located on Lot 801 would provide reasonable and convenient parking facilities for the occupants of the Sunday School Building. Also, the parking spaces could result in more efficient use of the lot on which the Sunday School Building is located.

By letter dated October 7, 1997, Duryea C. Smith, the Secretary of the RLA, advised the Board that the applicant is acting as an agent of the Redevelopment Land Agency in applying for zoning relief to establish accessory parking spaces on Lot 801.

Advisory Neighborhood Commission (ANC) 5C, in a letter to the Board dated October 10, 1997, voted unanimously to support the application. ANC-5C acknowledged the limited availability of parking in the neighborhood as an issue of concern but pointed to the applicant's acquisition of use rights on Lot 801 for additional parking as evidence of the applicant's desire to take whatever actions are necessary to minimize parking concerns. ANC-5C predicted that the applicant would continue to work closely and cooperatively with it on parking and other issue that may occur in the future. On this basis, ANC-5C urged the Board to grant the zoning relief that has been requested.

Four residents of Square 520 appeared and testified of their strong support of the application. Each acknowledged the possibility of a parking availability concern among the neighbors on Sunday mornings but opined that this concern was minimal and greatly outweighed by the good that the proposed Sunday School Building would bring to their community. One resident testified that he owned three cars and had no problem parking any of them on weekdays or on Sundays.

Ms. Gloria M. Jolivet, a neighboring property owner, by letter dated October 8, 1997, supported the proposed project.

Ms. Rebecca Warner, a property owner who resides at 1619 4th Street, N.W., submitted a letter dated October 7, 1997 opposing the proposed project. Ms. Warner testified that it is unacceptable for the church to access its proposed off-street parking spaces through the narrow alley that now exists. She stated that currently the church does not have adequate off-street parking available and that she has reason to believe that the church wants to expand and increase its programs and activities. Attached to her letter was a petition that she said had been signed by area residents in opposition to this application. Ms. Warner also introduced photographs into the record showing renovated housing and houses for sale in the neighborhood. She further testified that the increased parking problems that the proposed use would cause would adversely affect the revitalization of the neighborhood. She testified further that she had not been adequately notified of the Advisory Neighborhood Commission 5C meeting at which this application was discussed and voted upon.

Two other residents of Square 520 appeared and testified in opposition to this application. They stated that the existing alley is too narrow to access the proposed off-street parking and that parking on Sundays is a problem in the neighborhood.

Seventy residents on 4<sup>th</sup> Street signed a petition opposing the application. They argued that the Zoning Regulations requires the church to have 18 parking spaces for which it can provide only ten spaces, to be accessed through the alley, and an additional four spaces two lots away. The residents on 4<sup>th</sup> Street stated that they found it unacceptable to access these parking spaces through a residential alley because this would increase the traffic flow through the alley, and hinder the residents' access to the rear of their properties.

The applicant submitted a Parking Management Plan, requested by the Board, that adequately addressed the concerns raised by residents, and affected the considerations raised by the Board. The Parking Management Plan, among others, concluded that the size, configuration and location of the lots allow for easy access from the adjacent public roadways. The applicant stated that the Parking Management Plan is based on extensive discussions with the Church during the application process regarding the church's commitment to minimizing any potential adverse effects on the community and considering the resources that would be required to improve the existing parking and traffic situation.

**Subsection 214.7 – Effect on the Use of Adjoining Property**

Subsection 214.7 states that the accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions.

The applicant's transportation consultant testified that the location of the accessory parking spaces on Lot 801 is reasonable and convenient to the proposed Sunday School Building on Lot 108 and that they (the parking spaces) would not adversely affect the health, welfare and safety of roadway users or the neighboring property of area residents.

The transportation expert testified further that the proposed development would not generate appreciable new or additional vehicular traffic and parking demands within the area.

**Reduction of Parking Spaces**

**Subsection 2108.2** authorizes the Board to reduce the off-street parking requirement by up to 50 percent. The Zoning Regulations require that 18 off-street parking spaces be provided for such a Sunday School Building in the R-4 District. The applicant requested to reduce the Sunday School Building's parking requirement by a total of five spaces, or 18 percent.

**Subsection 2108.5 – Review and Comment from the Department of Public Works**

Subsection 2108.5 requires the Board to refer the application to the District of Columbia Department of Public Works (DPW) for review and report. The referral was made; however, the Board did not receive a report from the DPW.

**Subsection 3108.1 – Harmony with the Zone Plan**

Under Subsection 3108.1, granting the special exception relief requested must be in harmony with the general purpose and intent of the zone plan.

The expert stated that the proposed Sunday School addition would be consistent with the height and architecture of existing buildings in the square and that the proposed sites would be landscaped, fenced and lighted.

In the letter submitted by Council Member Thomas, he requested that the Board grant the special exception relief and indicated that he is personally familiar with the neighborhood and he has examined the transportation and parking spaces for the development. In his view, the proposal would not have an adverse effect on the use or enjoyment of neighboring property.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds as follows:

1. Sunday School Building, a matter-of-right use, in this neighborhood. There is no practical way to develop the site in accordance with lot occupancy requirements.
2. The provision of additional parking on the lot is not practical because the lot is fully occupied. An underground parking facility is impractical because of the dangerous conditions such a structure would create for structures on properties adjoining the site.
3. The location of accessory parking spaces on Lot 801 is reasonable and convenient to the proposed use on Lot 108.
4. Locating four accessory parking spaces on Lot 801 will result in more efficient use of the lot upon which the Sunday School Building is located and will provide reasonable and convenient parking facilities for the users of the Sunday School Building.
5. The applicant cannot make reasonable use of Lot 108 for the Sunday School Building without zoning relief.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking an area variance from the lot occupancy requirements and a special exception to locate open accessory parking elsewhere than on the lot where the principal structure is located (Lot 801 on Square 520) and a special exception to reduce the number of required off-street parking spaces from 18 to 13.

The granting of the variance requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The granting of the special exception requires a showing of substantial evidence that the locating of open accessory parking spaces elsewhere than on the lot upon which the structure is located is reasonable and convenient to the principal use, that a special exception reducing the number of required parking spaces requires the Board to consider the nature and location of the structure, the maximum number of users who can reasonably be expected to use the proposed building or structure at one time, the amount of traffic congestion that the proposed Sunday School Building can reasonably be expected to create, the quantity of existing public or private parking which can reasonably be expected to be available when the building or structure is in use, and the proximity to public transportation of the proposed use. Based on the evidence of record, the Board concludes that proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property.

For the requested variance, the Board concludes that the applicant has met the burden of proof. The Board is of the opinion that the applicant faces a practical difficulty with the size of Lot 108 in developing a matter-of-right Sunday School Building use. The Board is of the opinion that granting the area variance will not be of substantial detriment to the public good, nor will it substantially impair the intent, purpose and integrity of the zone plan for the R-4 District.

For the requested special exception, the Board concludes that the applicant has met the requisite burden of proof as evidenced by the fact that the four accessory parking spaces will be reasonable and convenient to the principal structure because they are located within 100 feet of the proposed Sunday School Building use. The Board determines that the accessory parking spaces will not have an adverse effect on neighboring property. The Board concludes further that the applicant's proposed Parking Management Plan further demonstrates that this application will not adversely affect the use of neighboring property because of traffic and parking.

The Board concludes that it has accorded the ANC-5C the "great weight" consideration to which it is entitled. Accordingly, the Board hereby **ORDERS** that the application be **GRANTED**.

**VOTE: 5-0** (Laura M. Richards, Maybelle Taylor Bennett, Sheila Cross Reid, Betty King and Susan Morgan Hinton to grant).

**THIS ORDER WAS ISSUED AS A PROPOSED ORDER PURSUANT TO THE PROVISIONS OF D.C. CODE SECTION 1-1509(D). THE PROPOSED ORDER WAS SENT TO ALL PARTIES ON MAY 18, 1998. THE FILING DEADLINE FOR EXCEPTIONS AND ARGUMENTS WAS JUNE 15, 1998. THE DEADLINE FOR RESPONSES WAS JUNE 25, 1998. NO PARTY TO THIS APPLICATION FILED EXCEPTIONS OR ARGUMENTS RELATING TO THE PROPOSED ORDER; THEREFORE, THE BOARD OF ZONING ADJUSTMENT ADOPTS AND ISSUES THIS ORDER AS ITS FINAL ORDER IN THIS CASE.**

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT – Sheila Cross Reid, Betty King and Maurice Foushee.**

ATTESTED BY: *Sheri M. Pruitt-Williams*  
**SHERI M. PRUITT-WILLIAMS**  
**Interim Director**

JUL - 2 1998

**Final Date of Order:** \_\_\_\_\_

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, “NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.”

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16269**

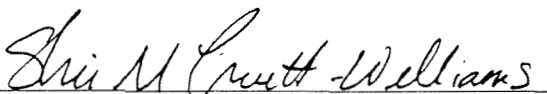
As Interim Director of the Office of Zoning, I hereby certify and attest that on JUL - 2 1998 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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Attested By:

  
SHERI M. PRUITT-WILLIAMS  
Interim Director

DATE: JUL - 2 1998

attest/twr